MONTANA LEGISLATIVE HISTORY

Chapter 218 19 77

Bill H _____ S 335 Original bill & history ✓ C

H. Committee on judiciary		S. Committee on judiciary	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
_____	___C	_____	___C
3/11	✓C	2/7	✓C
_____	___C	_____	___C
Date Out 3/11	✓C	2/8	✓

Did this bill originate in an interim committee? ___Yes ✓No

Committee _____ Report _____

Senate BILL NO. 335

INTRODUCED BY Committee on Judiciary
By: Turnage

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 94-5-607, R.C.M. 1947, "ENDANGERING WELFARE OF CHILDREN", TO MAKE IT CLEARLY APPLICABLE TO ALL PERSONS, WHETHER OR NOT THEY HAVE CUSTODY OF THE CHILDREN."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 94-5-607, R.C.M. 1947, is amended to read as follows:

"94-5-607. Endangering welfare of children. (1) A parent, guardian, or other person supervising the welfare of a child less than sixteen (16) years old commits the offense of endangering the welfare of children if he knowingly endangers the child's welfare by violating a duty of care, protection or support.

(2) A parent, or guardian, or ~~other~~ any person who is 18 years of age or older, whether or not he is supervising the welfare of the child, commits the offense of endangering the welfare of children if he knowingly contributes to the delinquency of a ~~youth~~ child by:

(a) supplying or encouraging the use of intoxicating substances by a child;

(b) assisting, promoting, or encouraging a child to leave or abandon his place of residence without the consent of his parents or guardian, to enter a place of prostitution, to engage in sexual conduct, or to enter places exclusively for adults.

(3) A person convicted of endangering welfare of children shall be fined not to exceed five hundred dollars ($500) or be imprisoned in the county jail for any term not to exceed six (6) months, or both. A person convicted of a second offense of endangering welfare of children shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

(4) Evidence. On the issue of whether there has been a violation of the duty of care, protection, and support, the following in addition to all other admissible evidence, shall be admissible: cruel treatment, abuse, infliction of unnecessary and cruel punishment, abandonment, neglect, lack of proper medical care, clothing, shelter and food; evidence of past bodily injury.

(5) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered."

-End-

FORTY-FIFTH LEGISLATIVE SESSION

1977 Senate

COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
S.B. 274	1-25-77	Trsfd. out 1-28-77							
S.B. 278	1-26-77	2-8-77	2-14-77		2-14-77				
S.B. 301	1-26-77	2-8-77	2-17-77	2-17-77					
S.B. 311	1-27-77	2-11-77	2-18-77			2-18-77			
S.B. 318	1-28-77	2-9-77	2-15-77			2-15-77			
S.B. 326	1-28-77	2-7-77	2-7-77			2-7-77			
S.B. 332	1-29-77	2-10-77	2-12-77		2-12-77				
S.B. 335	1-29-77	2-7-77	2-18-77			2-18-77			
S.B. 337	1-29-77	2-14-77	2-14-77		2-14-77				
S.B. 338	1-29-77	2-14-77	2-14-77		2-14-77				
S.B. 339	1-29-77	2-10-77	2-10-77			2-10-77			
S.B. 343	1-29-77	2-14-77	2-14-77		2-14-77				
S.B. 356	2-1-77	2-14-77	2-14-77			2-14-77			
S.B. 369	2-1-77	2-9-77	2-14-77		2-14-77				
S.B. 385	2-3-77	2-17-77	2-18-77	2-18-77					
S.B. 393	2-14-77	2-17-77	2-18-77		2-18-77				

(Use Separate Sheet for Senate, House Bills, and Resolutions)

Amend page 1, section 1, subsection (b), line 24, following "was" by striking "solemnized" and inserting "entered into".

Senator Turnage moved the adoption of the amendments. The motion carried unanimously. Senator Warden then moved that S.B. 326 as amended DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 335:

Tom Honzel, representing the County Attorneys, told the committee that this bill should clarify the problem of endangering the welfare of children by adults, and that this has always been a problem since the Criminal Code was adopted in 1973. He further said that they support this bill if it does clarify the problem and asked that the committee consider the measure.

Senator Towe moved the adoption of amendments offered by committee members, however, since three of the members voted against accepting the amendments proposed, and at the suggestion of Senators Roberts and Regan, it was decided to consider this bill at another time. Senator Olson moved that consideration be passed for the day. This motion carried unanimously.

CONSIDERATION OF SENATE BILL 245:

Senator Murray, sponsor of S.B. 245, explained the bill to the committee and pointed out the amendments it made to the codes.

The first proponent of this bill to testify was Jack Burke of the Montana Power Co. who said that there has been too much time elapse between the time that the company has applied for a rate increase and when the decision is handed down by the Public Service Commission.

At this point,Geoff Brazier, the Consumer Counsel, appearing as an observer, testified that once there is a hearing, the Public Service Commission cannot grant a temporary rate increase because of the wording of the law.

Les Loble, representing the Montana-Dakota Utilities Co. and the General Telephonesof the Northwest, Inc., asked that the committee consider this bill favorably.

The next proponent to testify was Gene Phillips of Kalispell, representing the Pacific Power & Light Co., who also said that this was a good bill and asked that it be considered favorably.

Jim Hughes, representing Mountain Bell, then appeared as a proponent but said that they have not yet encountered this but that they believe this bill would make it easier.

Geoff Brazier, Consumer Counsel, suggested that the amendment to page 3, line 10, be changed to be a "." after "hearing" and strike the next three words. He said that that would clarify the bill. Jack Burke was asked to reply to this statement and he said that he disagreed but respects the right of the commission to have a hearing.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2/7/77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret	✓		

2-9-87
SB 245, 262 + 335

Judiciary

VISITOR'S REGISTER

Nora B...

NAME	REPRESENTING	Check One: Support	Oppos
Jim Nelson	MOUNTAIN BELL	245	
Jim Jobbe	MONTANA POWER	245	
Bruce Phillips	Pacific Power & Light	245	
Les Loble	Montana Dakota Utilities Co Gen Tel of the Northwest Inc	SB 245	
[illegible] Howell	Board of Investments	262	
[illegible] Boyd	County Attorneys	335	
[illegible] Bergin	Consumer Counsel Observer		

(Please leave prepared statement with Secretary)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 18, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:00 a.m. in Room 442 of the State Capitol Building on the above date.

ROLL CALL:

All members of the committee were present, however, Senators Regan and Roberts arrived at 9:55 and 9:40 respectively, and Senator Warden arrived at 10:05 and was excused again at 10:30 a.m.. These senators were excused to make presentations in other committees.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 311:

Senator Towe moved the adoption of the attached amendments. (See Attachment #1) The motion carried unanimously. He then moved that S.B. 311 as amended DO PASS. The motion carried unanimously.

DISPOSITION OF SENATE BILL 335:

Senator Towe moved the adoption of the amendments previously made. The motion carried unanimously. (See attachment #2)

Senator Lensink moved that S.B. 335 as amended DO PASS. The motion carried unanimously.

HEARING - 9:30 a.m.

CONSIDERATION OF SENATE BILL 439:

Senator Hazelbaker presented the bill to the committee as he had sponsored it at the request of the Crime Control Board. He then introduced Wally White of the Board of Crime Control who said that the committee who wrote the bill has five members present at this meeting and that it was written because of a requirement in the federal register that came out in March, 1975, requiring states to make confidentiality regulations about records, and it provides that people can have their records, such as police records, checked for accuracy.

The next proponent of the bill was Ron Semple of the Independent Record in Helena, representing the Montana Press Assn., who said he believed this can be made an excellent bill by adding on page 11, line 16, following the word "about", the word "arrests,". (See Exhibit 1) He further said that this is a fine thoughtful piece of legislation.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977

9:00 a.m.

Date 2-18-77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓ 9:40		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓ 9:55		
TOWE, Tom	✓		
WARDEN, Margaret	✓ 10:05		✓ ✓ 10:30

Attach #2

Respectfully report as follows: That ..... SENATE ..... Bill No. ..... 335 ,...

the introduced bill, be amended as follows:

1. Amend title, line 7.
Following: "CHILDREN"
Insert: "; AND TO REDEFINE THE SCOPE OF THE OFFENSE"

2. Amend page 2, section 1, line 1.
Following: line 25, page 1.
Strike: "leave or"
Insert: XXXXX ": (i)"

3. Amend page 2, section 1, line 2.
Following: "guardian"
Strike: ", to"
Insert: "; (ii)"

4. Amend page 2, section 1, lines 3 and 4.
Following: "prostitution"
Strike: ", to"
Insert: "; or (iii)
XXXXXX Following: "conduct"
Strike: ", or to enter places exclusively for adults"

House

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 33	revise, repeal & recodify election laws relating to criminal provisions for election & campaign practices	2-24	Blaylock	3-11 Friday	concurred in	3/22
SB 335	amend-endangering welfare of children, make it clearly applicable to all persons, whether have custody, etc.	2-25	Turnage	3-11 Friday	concurred	3-11
SB 41	provide for approval of attorney fees in connection with claims against gvt entities	2-26	Towe	3-8 Tuesday	concurred	3-10
SB 376	amend water use act to clarify water use rights, etc.	2-26	Boylan	3-15 Tuesday	table	3/25
SJR 16	urging supreme court to rescind its rule requiring aspirants to Montana bar to hold degree from accreditated law school	2-26	Brown	3-14 Monday	no recommendation	3-17
SB 187	avoid possibility of dbl jeopardy & to cause administrative penalty to be effective	3-2	Lee	3-14 Monday	concurred	3-16

JUDICIARY COMMITTEE
March 11, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. Friday, March 11 in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Dussault, Colburn, Conroy and Kennerly.

Scheduled for hearing were Senate Bills 33, 156, 335, 346, 396, 397, and 437.

SENATE BILL #437
SENATOR DUNKLE, DISTRICT #15:
This bill will establish a joint underwriting association for medical liability insurance. Insurance is expensive and becoming more difficult to procure. There are only a few companies that write malpractice now, in Montana. One is thinking of stopping and another as there insurance policies come to an end, will stop writing. This bill sets up a joint underwriting association only if there are no opportunities to get it from a private company. There is no loss to the insurance companies. He talked about the problems the doctors are having and what a major lawsuit might do to a doctor. This association would not interfere with any private company because it would be only as long as there are no insurance companies writing in Montana.

PROPONENT, GARY NEELY, MONTANA MEDICAL ASSOCIATION:
I would only add that the bill expires on December 31, 1979 even if the market does not exist. There is always a time lag in the implementation of self-insurance. He presented the committee with a copy of the position paper of the medical association. (attached)

CHAIRMAN SCULLY:
When does the current contract with Aetna run out?

MR. NEELY:
The end of this year. I am not sure but I do know many physicians are buying on a monthly basis. They may continue coverage next year but there is no legal contract to that effect.

No other proponents and no opponents, the hearing closed on SB 437.

SENATE BILL #335:
SENATOR TURNAGE, DISTRICT #13:
This bill will amend the law pertaining to the welfare of children, redefining the scope of the offense. He mentioned how the change will be in the section contributing to the delinquency of a minor. The violation of the duty of care, protection, and support, cruel treatment, etc.

There were no other proponents and no opponents.

The hearing closed on Senate Bill #335.

JUDICIARY COMMITTEE

EXECUTIVE SESSION
March 11, 1977

The executive session was called to order by Chairman Scully following the regular meeting at 9:00 a.m. in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Dussault, Kennerly, Conroy and Colburn.

SENATE BILL #346:
REPRESENTATIVE BAETH moved "not concurred in".
The motion carried with the vote unanimous.

SENATE BILL #156:
REPRESENTATIVE LORY moved to "table".
The motion carried with the vote unanimous.

SENATE BILL #335:
REPRESENTATIVE McLANE moved "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #397:
REPRESENTATIVE KEYSER moved "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #437:
REPRESENTATIVE RAMIREZ moved "be concurred in".
The motion carried with Representative Eudaily voting "no".

SENATE BILL #101:
REPRESENTATIVE SEIFERT moved to amend the title, line 6 and page 2, line 1. The motion carried with the vote unanimous.
REPRESENTATIVE RAMIREZ moved to amend page 2, line 1 and 3, 4 and 5. The motion carried with the vote unanimous.
REPRESENTATIVE HOLMES moved to amend by changing the number of legislators listed as 5 on page 1, line 22, to "the majority of either house or senate".
REPRESENTATIVE KEYSER moved a substitute amendment changing the five to fifteen. The motion carries with Lory voting "no".

REPRESENTATIVES LORY and RAMIREZ spoke against the bill.

REPRESENTATIVE KEYSER moved "be not concurred in as amended". The motion carried with Representatives Holmes and Courtney voting "no". (copy of amendments as passed attached)

SENATE BILL #115:
REPRESENTATIVE BAETH moved "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #262:
REPRESENTATIVE RAMIREZ moved "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #250:
REPRESENTATIVE RAMIREZ moved "be concurred in".
The motion carried with the vote unanimous.

SENATE BILL #230:
REPRESENTATIVE SEIFERT moved "be concurred in".
Discussion about the way of deliver, whether by ordinary mail or special delivery, how the person could prove when it was sent. etc.
After more deliberation REPRESENTATIVE LORY moved it be passed for the day. The motion carried with the vote unanimous.

SENATE BILL #229:
REPRESENTATIVE HAND moved "be concurred in".
The motion carried with the vote unanimous.

The following members were appointed to carry the respective senate bills:

SB 101	REPRESENTATIVE COURTNEY
SB 115	REPRESENTATIVE COURTNEY
SB 262	REPRESENTATIVE ROTH
SB 229	REPRESENTATIVE HAND
SB 250	REPRESENTATIVE RAMIREZ
SB 335	REPRESENTATIVE KEYSER
SB 437	REPRESENTATIVE RAMIREZ
SB 397	REPRESENTATIVE McLANE

The meeting adjourned at 10:00 a.m.

JOHN P. SCULLY, CHAIRMAN

Mary Ellen Connelly

Mary Ellen Connelly, Secretary

SENATE BILL NO. 335

INTRODUCED BY COMMITTEE ON JUDICIARY, BY TURNAGE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 94-5-607, R.C.M. 1947, "ENDANGERING WELFARE OF CHILDREN"; TO MAKE IT CLEARLY APPLICABLE TO ALL PERSONS, WHETHER OR NOT THEY HAVE CUSTODY OF THE CHILDREN; AND TO REDEFINE THE SCOPE OF THE OFFENSE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 94-5-607, R.C.M. 1947, is amended to read as follows:

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(2) A parent, or guardian, or ~~other~~ any person who is 18 years of age or older, whether or not he is supervising the welfare of the child, commits the offense of endangering the welfare of children if he knowingly contributes to the delinquency of a ~~youth~~ child by:

(a) supplying or encouraging the use of intoxicating substances by a child;

(b) assisting, promoting, or encouraging a child to; ~~leave or~~

(i) abandon his place of residence without the consent of his parents or guardian, ~~to~~;

(ii) enter a place of prostitution, ~~to~~; OR

(iii) engage in sexual conduct, ~~or to enter places exclusively for adults~~.

(3) A person convicted of endangering welfare of children shall be fined not to exceed five hundred dollars ($500) or be imprisoned in the county jail for any term not to exceed six (6) months, or both. A person convicted of a second offense of endangering welfare of children shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

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(5) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering welfare of children paid to or for the benefit of the person

or persons whose welfare the defendant has endangered."

-End-